IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI

CRIMINAL APPEAL NO. 27 OF 2001

Babu Govekar,
presently undergoing
sentence at Central Jail,
Aguada, Bardez-Goa. ... Appellant.

versus

State ... Respondent.

Mr. S. G. Dessai, Senior Advocate with Mr. Arun Bras de Sa, Advocate for the Appellant.

Mr. A. P. Lawande, Public Prosecutor for the State.

CORAM: P. V. HARDAS, J.

DATED: 8TH FEBRUARY,2002.

ORAL JUDGMENT

The Appellant has filed the present Appeal challenging the conviction and sentence passed by the Special Judge, N.D.P.S. Court, Mapusa, in Special Criminal Case No.20/2000 convicting the Appellant for an offence punishable under Sections 21 and 22 of the N.D.P.S. Act, 1985 and sentencing him for the aforesaid offence, on each count to undergo Rigorous Imprisonment for 10 years and to pay fine of Rs.1,00,000/-, in default to undergo Simple Imprisonment for 6 months. It is this aforesaid conviction and sentence that is challenged in the present Appeal by the Appellant.

2. The facts necessary for the decision of the Appeal are set out hereunder:-

On 13th January, 2000, at about 11.00 a.m., two panchas namely P.W.3, Francis Almeida and Sadat Nizamuddin, both Government servants, working in the Director of Education, Panaji, were summoned by P.I. Shri Lavu Mamledar(P.W.6) to the Anti Narcotic Cell, Panaji to act as panch witnesses. On the same day, at about 5.00 p.m., P.W.4, P.S.I. Uday Naik, had received a specific and reliable information that one person by name Babu Govekar, aged 21 years would be coming to deliver a consignment of drugs to his customers near Starco junction at Anjuna between 11.00 p.m. to 11.30 p.m. P.W.4, P.S.I. Uday Naik, had reduced the said information into writing and a copy of that information was given to P.W.5. Shri Shirish Thorat. The said information, Exh.P.W.4/E was received by P.W.5, Dy.S.P. Shri Thorat on the same day i.e. on 13th January, 2000 at about 5.00 p.m. The original of P.W.4/E is at Exh.P.W.4/D. P.W.5, Dy.S.P. Shri Thorat, has acknowledged the receipt of the information on Exh.P.W.4/E at point "Y". The panchas who were then present in the Anti Narcotic Cell, Panaji were introduced to the members of the raiding party which comprised of P.W.5, Dy.S.P. Shri Shirish Thorat, P.W.6, P.I. Lavu Mamledar, P.S.I. Shri Salim Shaikh, Shri Prabhudessai, P.W.4, P.S.I. Uday Naik and other Police Officials. The raiding party, comprising of the Police Officers referred to above, left the Police Station at about 10.00 p.m. on 13th January, 2000 in two private four

wheelers and two private two wheelers and proceeded to Anjuna at the Starco junction. P.W.4, P.S.I. Uday Naik, was carrying a seal of Anti Narcotic Cell, Panaji, Goa-2 with Ashoka Emblem and one constable Devidas Gawas was carrying with him a kit box containing weighing, packing and sealing materials and Head Constable Mohan Naik, was carrying a typewriter.

3. According to the prosecution, the raiding party parked their vehicles near Starco junction and concealed themselves behind the vehicles. At about 11.30 p.m., they saw one person coming towards the lane from Starco junction and since his description tallied with the description of the person delivering the consignment of drugs, this person was accosted by the members of the raiding party. P.W.4, Uday Naik, identified himself as P.S.I. of Anti Narcotic Cell and on questioning, the said person disclosed his name as Babu Sadashiv Govekar. P.W.4, P.S.I. Uday Naik, then introduced the members of the raiding party to Babu Govekar. At about 11.40 a.m., P.W.4, P.S.I. Uday Naik, then informed Babu Govekar, that he had received a specific and reliable information that he had come to deliver the consignment of drugs to his customers and, therefore, P.W.4, P.S.I. Uday Naik, wanted to take the personal search of the said person Babu Govekar. P.W.4, P.S.I. Uday Naik, then informed him that Babu Govekar had a right to be searched either before a Gazetted Officer or a Magistrate but the said person Babu

Govekar declined the offer. P.W.4, P.S.I. Uday Naik, then informed Babu Govekar that he had a right to search the members of the raiding party including the panchas but again Babu Govekar declined to exercise that right. Thereafter, P.W.4, P.S.I. Uday Naik, then conducted the personal search of Babu Govekar and during the personal search, P.W.4, P.S.I. Uday Naik, found one small transparent polethene bag containing white colour powder in the left side pocket of the half pant which was worn by said Babu Govekar. On opening the said polethene bag, P.W.4, P.S.I. Uday Naik, informed the panchas that he suspected the powder to be heroin. The said bag was then weighed and was found to weigh 6 grams. It was put in an envelope packed and sealed with wax seal at seven places with the seal of Anti Narcotic Cell, Panaji, Goa-2 with Ashoka Emblem. The said outer packet was signed by P.W.4, P.S.I. Uday Naik and the panchas as the said Babu Govekar refused to sign the envelope. The said sample packet was marked as Sample No.1. Thereafter, further search of said Babu Govekar revealed one transparent polethene packet containing white colour tablets in the right side pant pocket. P.W.4, P.S.I. Uday Naik, on minutely observing the said tablets informed the panchas that they were Ecstacy tablets and were 17 in number. Those tablets were put in an envelope, packed and sealed by observing the same procedure of sealing as was observed in respect of heroin. The outer cover was signed by P.W.4, P.S.I. Uday Naik, and the panchas. The said Babu Govekar

also refused to sign on the outer cover which was marked as Sample No.2. During the search, an amount of Rs.3,500/- comprising of 29 currency notes of Rs.100/- each and 12 currency notes of Rs.50/- each were found in the rear side pant pocket.This money was also seized, sealed and signed by following the same procedure in respect of the contraband articles. P.W.4, P.S.I, Uday Naik, then informed said Babu Govekar that possession of drugs without legal documents was an offence and since the said Babu Govekar did not possess any legal documents, he was arrested and taken into custody by informing him the grounds of arrest. Once again, an offer was extended to said Babu Govekar to search the members of the raiding party including the panchas and the said Babu Govekar declined the offer. According to P.W.4, P.S.I. Uday Naik, the weighing and packing was done by Constable Devidas Gawas and the sealing was done by P.W.4, P.S.I. Uday Naik. A panchanama of the entire sequence of events was drawn and the panchanama is at Exh.P.W.3/A. The panchanama had commenced at 11.40 p.m. on 13th January, 2000 which was concluded at 3.45 a.m. on 14th January, 2000. A Seizure Report at Exh.P.W.3/B was prepared and was signed by P.W.4, P.S.I. Uday Naik and the two panchas. The Accused had also refused to sign the said Seizure Report. On coming to the Police Station, P.W.4, P.S.I. Uday Naik, filed his complaint which is at Exh.P.W.4/A and handed over the muddemal property to P.W.6, P.I. Lavu Mamledar along with the seal. The properties and the seal were handed over

by P.W.4, P.S.I. Uday Naik, by tendering a letter, the carbon copy of which is at Exh.P.W.4/B. An intimation under Section 57 of the N.D.P.S. Act, 1985 was sent to P.W.5, Dy.S.P. Shri Thorat and the same is at Exh.P.W.4/C.

4. P.W.6, P.I. Lavu Mamledar, sent the sample to the Crime Branch for onward transmission to the Central Forensic Science Laboratory, at Hyderabad. The samples as sent by P.W.6, P.I. Lavu Mamledar were received in the Crime Branch by P.W.2, Manohar Joshi, on 14th January, 2000, along with a covering letter. Vide P.W.2/A, P.W.2, Manohar Joshi, acknowledged the receipt of the samples and sent the samples to the Director, Central Forensic Science Laboratory, Hyderabad. The report of P.W.1, S. Mukhopadya, is at Exh.P.W.1/C. On examination of the samples, P.W.1, S. Mukhopadya, found that the Sample No.1 contained heroin and the Sample No.2, consisting of 17 tablets, tested positive for 3-4 Methylene Dioxyamphetamine HCL.

5. A charge-sheet, therefore, came to be filed against the present Appellant for the aforesaid offences. The learned Trial Court vide Exh.3, framed a charge against the Appellant for offences punishable under Sections 21 and 22 of the N.D.P.S. Act, 1985. The Appellant abjured his guilt and claimed to be tried. The prosecution in support of its case examined six witnesses. The pivot of the prosecution case is the evidence of P.W.3, Francis Almeida

and P.W.4, P.S.I. Uday Naik. P.W.3, Francis Almeida who is examined as panch witness, states that on 12th January, 2000, he and the other panch one Sadat Nizamuddin had received the orders from their superiors that they should act as panchas of the Police on 13th January, 2000. According to P.W.3, Francis Almeida, he along with the other panch had gone to the Anti Narcotic Cell Police Station and met the Police Officers including P.W.5, Dy.S.P. Shri Shirish Thorat, P.W.6, P.I. Lavu Mamledar and P.W.4, P.S.I. Uday Naik. Both the panchas were told by P.W.4, P.S.I. Uday Naik, that he had received reliable information that one person by name Babu Govekar would be coming at the Starco junction at about 11.00 p.m. to deliver a consignment of drugs. The two panchas along with the other Police Officers, comprising the raiding party, left for Anjuna at about 10.00 p.m. According to P.W.3, Francis Almeida, the raiding party comprising of 12 persons including the Police Officers had gone in two Maruti vehicles and two motor cycles. The raiding party had carried with them the kit box and the seal was carried by P.W.4, P.S.I. Uday Naik. According to P.W.3, Francis Almeida, at about 11.30 p.m., the Police brought one person before them. He then refers to the procedure which was followed by P.W.4, P.S.I. Uday Naik in informing the said person of his right in being searched either before a Gazetted Officer or a Magistrate. He also deposes about the factum of delivering of powder and the Ecstacy tablets and

the currency notes from the possession of the said Babu Govekar. He has also deposed about the procedure that was followed in respect of the sealing of the samples. In the cross-examination, P.W.3, Francis Almeida, has admitted "hotel was open and some persons were taking their food inside". P.W.3, Francis Almeida, further admits in his cross-examination "we were standing outside the hotel and from there the road was 10 metres away. I did not see how many roads met at the junction". P.W.3, Francis Almeida, further states in the cross-examination "Dy.S.P. Thorat, P.I. Mamledar, P.S.I. Uday Naik and one Salim Shaikh brought the Accused before us. In all eight persons were waiting near the hotel when the above four persons had gone to bring the Accused"(Emphasis mine). He further states that they were waiting at the hotel about one hour before the Accused was brought. In the cross-examination, P.W.3, Francis Almeida, has also admitted "I did not question P.S.I. Uday Naik as where they were for one hour".

6. The panchanama which is at Exh.P.W.3/A refers to the fact that the raiding party had reached near the Starco junction, Anjuna at about 10.30 p.m. According to the panchanama, they had parked their vehicles on the road and all remained present inside the vehicle. P.W.4, P.S.I. Uday Naik, told the staff on the motor cycle to conceal their presence and accordingly, they concealed their presence. It is further stated in the panchanama that at

about 11.30 p.m., they saw one person coming from the lane and since the description of the said person tallied with the information received by P.W.4, P.S.I. Uday Naik, P.S.I. U.B.Naik, pointed the said person to the panchas and told them that he was the same person against whom he had received the information. The recitals in the panchanama further reveal that the raiding party had concealed after alighting from the vehicles. P.W.4, P.S.I. Uday Naik, in this respect has deposed that "thereafter we parked our vehicles near the Starco junction and concealed ourselves behind the vehicles. At about 23.30 hrs. we saw one person coming from the lane towards Starco junction. His description was tallying with the description earlier received. I told the panchas accordingly and immediately surrounded the said person".(Emphasis supplied).

7. Mr. S. G. Dessai, the learned Senior Advocate appearing for the Appellant, after inviting my attention to the evidence, which has been reproduced above, submitted that from the evidence of P.W.4, P.S.I. Uday Naik, and the recitals in the panchanama, it is clear that the Police party waited for the Accused to come to the Starco junction. According to him, the evidence of P.W.4, P.S.I. Uday Naik, and the recitals in the panchanama reveal that the raiding party had concealed themselves behind the vehicle and it was only when they spotted the Accused, whose description tallied with the earlier description that the panchas and

the Police Officers immediately surrounded the said person. The recital in the panchanama reveals that all the members of the raiding party remained seated in the vehicles and only when they saw the Accused they alighted and went. Mr. Dessai, the learned Senior Advocate appearing for the Appellant then submitted that the evidence of P.W.3, Francis Almeida, was to the fact that P.W.4, P.S.I. Uday Naik, P.W.5, Dy.S.P. Shri Shirish Thorat, P.W.6, P.I. Lavu Mamledar and another Police Officer by name Shaikh had gone and were absent for one hour and thereafter, the Accused came to be produced before the panchas. It is submitted that the version tendered by P.W.3, Francis Almeida, the recitals in the panchanama and the evidence of P.W.4, P.S.I. Uday Naik, are contradictory interse. In this regard, the learned Senior Advocate appearing for the Appellant invited my attention to the evidence of P.W.5, Dy.S.P. Shri Thorat and P.W.6, P.I. Lavu Mamledar. P.W.5, Dy.S.P. Shri Thorat, in his evidence states that in the month of January, he was posted as Dy.S.P. incharge of Anti Narcotic Cell. He also states that he had been handed over the information by P.W.4, P.S.I. Uday Naik. He then states that he had accompanied the raiding party and the Accused was found in illegal possession of 6 grams of heroin and 17 Ecstacy tablets in two separate polethene packets. He says that after the raid, P.W.4, P.S.I. Uday Naik, sent him an intimation under Section 57 of the N.D.P.S. Act, 1985. Similarly, P.W.6, P.I. Lavu Mamledar, states that he was a

member of the raiding party and after the raid, P.W.4, P.S.I. Uday Naik, had handed over three sealed envelopes and a letter addressed to him and a letter addressed to the Director of Food and Drugs Administration. P.W.4, P.S.I. Uday Naik, had also handed over the specimen seal and Exh.P.W.1/B. Both these witnesses i.e. P.W.5, Dy.S.P. Shri Shirish Thorat and P.W.6, P.I. Lavu Mamledar, in their evidence do not refer as to how and at which place and at what time the Accused was apprehended. P.W.6, P.I. Lavu Mamledar, does not even refer to the fact that any contraband articles were found in the possession of the Accused. P.W.5, Dy.S.P. Shri Shirish Thorat, makes a passing reference to the fact that the Appellant was found in possession of 6 grams of heroin and 17 Ecstacy tablets. Both these witnesses admittedly were members of the raiding party.

8. The Appellant in his statement under Section 313 of Criminal Procedure Code, in response to Question No.35 has stated as under:-

> "On 13-1-2000 my head was paining as such I was sleeping at 7.00 p.m. At 10.30 p.m. I went to the restaurant to bring my sister. My sister told me that somebody was searching for me. I came out from the cabin. I was put in a maruti and was taken to 3 kms. away near the petrol pump. There they questioned me as to why I had not given the names of Drug sellers in

> Anjuna. I replied as to why I should unnecessarily give the names of others. I was then taken to Panaji and made to sit".

9. The Appellant has examined D.W.1, Sufala S. Govekar, daughter of Sadashiv Govekar. She states in her evidence that on 13th January, 2000, she was working at a restaurant called Flowerseen situated at Anjuna which was run by the Accused. The Accused came at about 10.30 p.m. to take her home. After the Accused had come to the hotel, there were two blank calls on her telephone and at that time, the Accused was sitting in his cabin checking the bills. According to her, when she was outside, a maruti van came and the Accused was taken away in the said maruti van. According to her, this was at about 10.45 p.m.. She says that about four to five persons had taken away the Accused. Her evidence was challenged in the cross-examination by the learned Public Prosecutor appearing for the State. The evidence in the cross-examination is reproduced as under:-

> "I deny the suggestion that I was not present in the restaurant. I deny the suggestion that I falsely stated that Babu came to the restaurant at 10.30 p.m.. I deny the suggestion that 4 to 5 persons came in a maruti van and took the accused to Mapusa".

10. Mr. S. G. Dessai, the learned Senior Advocate appearing for the Appellant, after inviting my attention to the defence evidence has urged before me that apart from the

discrepancy in the evidence qua P.W.3, Francis Almeida and P.W.4, P.S.I. Uday Naik, the evidence of the sister of the Appellant D.W.1, Sufala Govekar, who has withstood the searching cross examination establishes that the Appellant was taken from the hotel after the Appellant had come out of the cabin. According to him, the version of D.W.1, Sufala Govekar, stands firmly established in view of the evidence of P.W.3, Francis Almeida, wherein P.W.3, Francis Almeida, says that P.W.4, P.S.I. Uday Naik, and the other Police Officers were absent for about one hour and they had produced the Accused before the panchas. Thus, the evidence of P.W.3, Francis Almeida, in clearest possible terms establishes that the Accused was not apprehended at the scene of the offence as is sought to be made out by the recitals in the panchanama at Exh.P.W.3/A and the evidence of P.W.4, P.S.I. Uday Naik. If that is so, according to the learned Advocate appearing for the Appellant, a serious doubt is cast on the veracity of the evidence of the prosecution witnesses. The learned Advocate appearing for the Appellant then emphasises that the defence of the Appellant which is fortified by examining D.W.1, Sufala Govekar, is probablised that he was picked up from the hotel by four to five persons and taken in a maruti van. The submission of the learned Advocate appearing for the Appellant is that if the Appellant was apprehended from inside the hotel, it was incumbent on P.W.4, P.S.I. Uday Naik, to have recorded the reasons as to why it was not

feasible for him to obtain a search warrant from the Magistrate and admittedly, according to the learned Advocate appearing for the Appellant no such reasons have been recorded by P.W.4, P.S.I. Uday Naik. Therefore, it is submitted that the search has been effected in breach of the proviso to Section 42 of the N.D.P.S. Act, 1985 and as such, the Appellant is entitled to be acquitted. The version of apprehending the Appellant at the Starco junction has been introduced to cover up the non compliance of Section 42.

11. Mr. A. P. Lawande, the learned Public Prosecutor appearing for the State has submitted before me that a careful perusal of the answer of the Appellant to Question No.35 and a careful perusal of the testimony of D.W.1, Sufala Govekar, would reveal that there are slight discrepancies. According to the learned Public Prosecutor appearing for the State, the Appellant states that his sister had told him that somebody was searching for him. D.W.1, Sufala Govekar, does not speak about having informed the Appellant that somebody was searching him. In fact, D.W.1, Sufala Govekar, states that there were two blank calls on the telephone while the Appellant was in his cabin. According to the learned Public Prosecutor appearing for the State, the Appellant does not say that from the hotel he was taken to the Starco junction where he was searched and certain contraband was recovered from his possession.

12. Thus, according to the learned Advocate appearing for the Appellant, the Appellant has failed in probablising his defence as the fact that he was apprehended in the hotel had not been put to any of the prosecution witnesses.

13. The burden which rests on the prosecution to establish the offence against the Accused is much stricter than the burden which rests on the Accused to sustain his defence. The prosecution has to prove beyond reasonable doubt. The Accused has to only probablise his defence by preponderance of probabilities as is done in a Civil Case. The Accused in order to probablise his defence need not examine any witnesses. He can rely on the material in support of his defence which can be culled out from the evidence of the prosecution witnesses and the statement under Section 313 of the Criminal Procedure Code. The question before me is whether the Accused has been able to probablise his defence.

14. The learned Trial Court at paragraph 19 of the Judgment, while appreciating the evidence of the defence witness has held that P.W.4, P.S.I. Uday Naik, had brought the Appellant before the panchas. The learned Judge records a finding that he has believed the story of the panch because he is an independent witness. Thus, the Trial Court has repelled the version of P.W.4, P.S.I. Uday Naik as well

as the recitals in the panchanama that the Appellant was accosted near Starco junction while the raiding party waited for the Appellant. The learned Trial Court has relied heavily on the version of P.W.3, Francis Almeida, that P.W.4, P.S.I. Uday Naik, had brought the Accused before the panchas. The learned Trial Court then proceeds further and questions whether the fact that the Appellant was brought by P.W.4, P.S.I. Uday Naik, before the panchas would assist the defence and answers it in the negative. The learned Trial Judge then examines the answer given by the Appellant in his Statement under Section 313 of the Criminal Procedure Code qua the evidence of the defence witnesses microscopically and comes to a conclusion that since the Appellant had not pleaded that the contraband had been planted, the defence was not probablised.

15. One thing is crystal clear and that is the Appellant was not apprehended or accosted in the manner which is set out in the panchanama Exh.P.W.3/A or in the manner as deposed to by P.W.4, P.S.I. Uday Naik. Unfortunately, the evidence of P.W.5,, Dy.S.P. Shri Shirish Thorat and P.W.6, P.I. Lavu Mamledar, do not throw light on this discrepancy. The mystery of how the Accused was apprehended instead of being cleared of the evidence of the prosecution deepens still further. If the evidence of the panch is to be accepted, as the learned Trial Court has done, then it emerges that the Police Officers including

P.W.4, P.S.I. Uday Naik, P.W.5, Dy.S.P. Shri Shirish Thorat and P.W.6, P.I. Lavu Mamledar and one other Police Officer had gone away from where the other members of the raiding party were waiting. These Police Officers had gone away for one hour and had brought the Appellant with them. If, this fact is held to be established, it would then necessarily follow that the Appellant was not apprehended as is deposed to by P.W.4, P.S.I. Uday Naik. The question would then be where was the Appellant apprehended? The only logical answer would be to rely on the evidence of D.W.1, Sufala Govekar. According to me, the evidence of D.W.1, Sufala Govekar, is not such an outlandish statement as to be jettisoned completely. Her evidence finds a bit of support from the evidence of P.W.3, Francis Almeida. Admittedly, the answer given by the Appellant in his Statement under Section 313 of the Criminal Procedure Code and the evidence of D.W.1, Sufala Govekar, are slightly discrepant. The discrepncy is in respect of D.W.1, Sufala Govekar, who informed the Appellant that somebody was searching for him. In order to reject the evidence of another witness, the discrepancy should go to the core of the evidence or to the core of the fact which is sought to be proved from the evidence of a witness. A minor discrepancy here and there would not be a ground for discarding the evidence of a witness. The Appellant has not stated anything that he was searched and contraband articles were seized. However, this may be as a result of an advice tendered to him to refrain

from making any reference to the factum of search and seizure. Merely because the Appellant has not made a reference or taken a defence that the contraband was planted according to me, would not detract from the veracity of the defence statement. What the Appellant has stated in his Statement under Section 313 of the Criminal Procedure Code is substantially corroborated by D.W.1, Sufala Govekar. Ordinarily, I would have been inclined not to attach much weight either to the defence of the Appellant or to the defence witness D.W.1, Sufala Govekar, as the defence was not put to P.W.3, Francis Almeida and P.W.4, P.S.I. Uday Naik, but in this case, there is an exceptional circumstance and that circumcstance is the admission of P.W.3, Francis Almeida, that the Appellant was brought by P.W.4, P.S.I. Uday Naik and the other members of the raiding party after they had left the place. The members of the raiding party were absent for about one hour and thereafter, the Appellant was brought. This is in absolute contradiction to the evidence of P.W.4, P.S.I. Uday Naik and the recitals in the panchanama Exh.P.W.3/A. This circumstance according to me, only probablises the defence taken by the Appellant, despite the fact that there is a minor discrepancy in the defence evidence and the fact that this defence was not put to P.W.3, Francis Almeida and P.W.4, P.S.I. Uday Naik in their cross-examination.

16. Mr. S. G. Dessai, the learned Senior Advocate

appearing for the Appellant has relied on a Judgment of the Supreme Court in **Dudh Nath Pandey** v. **State of U.P.** reported in AIR 1981 SC 911. The Supreme Court in the said Judgment has held that defence witnesses are entitled to equal treatment with those of the prosecution and Courts ought to overcome their traditional instinctive disbelief in defence witnesses. Quite often, they tell lies but so do the prosecution witnesses. Mr. Dessai, the learned Senior Advocate appearing for the Appellant then also drew my attention to a Judgment of the Supreme Court in **State of U.P.** v. **Babu Ram** reported in (2000) 4 SCC 515 in which the Supreme Court has relied on a Judgment of **Dudh Nath Pandey** v. **State of U.P.**(supra).

17. I have carefully examined the evidence and I feel that this is not the case where the defence has been able to punch small holes in the fabric woven by the prosecution. According to me, the Appellant has been able to probablise his defence which shakes the basic fabric of the prosecution case and affects the veracity and the credibility of the prosecution case. The basic fabric of the prosecution case has been disturbed. According to me, no conviction can be sustained on such truncated evidence.

18. In the result, therefore, Criminal Appeal No.27/2000 is allowed. The Appellant is acquitted of the offence with which he was charged and convicted. The

Appellant be released forthwith if not wanted in any other case.

(P. V. HARDAS)
JUDGE